

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

ROBERT CALDWELL #933046

§

VS.

§

CIVIL ACTION NO. 1:23cv177

TDC EMPLOYEES, ET AL.

§

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff Robert Caldwell, an inmate at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled lawsuit.

The Court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends the action be dismissed without prejudice based on sanctions imposed by the United States Court of Appeals for the Fifth Circuit.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge’s Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the Court concludes plaintiff’s objections are without merit. Plaintiff has neither asserted nor demonstrated he has paid the sanctions imposed by the Fifth Circuit. Instead, plaintiff asserts that he is in a unique situation because he requires medication for a heart condition at specific times which occur during the prison count time, and he claims he is unable to “pay the fee right now.” So, plaintiff seeks to proceed without payment by requesting the

compassion of the Court. Allowing plaintiff to proceed based on the compassion of the Court, however, would allow plaintiff to circumvent the sanction order imposed by the Fifth Circuit which specific states the following:

The clerk of this court and the clerks of all federal district courts within this circuit are directed to refuse to file any pro se civil complaint or appeal from Caldwell unless he submits proof of satisfaction of the \$300 in sanctions. If Caldwell attempts to file any such submissions in this court without such proof, the clerk will docket them for administrative purposes only. Any submissions that do not show proof that the sanction has been paid will neither be addressed nor acknowledged.

Caldwell v. Quarterman, No. 07-40373 (5th Cir. Dec. 11, 2007).

Plaintiff's submission to the Court is not in compliance with the order of the Fifth Circuit because plaintiff failed to include proof of payment of the sanctions along with his submission to the Court. Further, the district court is not the proper forum to challenge the sanctions imposed by the Court of Appeals for the Fifth Circuit. Therefore, the above-styled action should be dismissed without prejudice.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this 11th day of July, 2023.



Michael J. Truncala
United States District Judge